

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ NOV 05 2010 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LINDA COVERT and CHAD COVERT,

Plaintiffs,

-against-

GARY D. GOLDBERG, M.D., KAREN B.
HILLER, R.N., M.S.N., A.N.P. and UROLOGY
ASSOCIATES, P.C.,

Defendants.
-----X

BROOKLYN OFFICE

10 Civil Action No. **10** **5**

**COMPLAINT AND
DEMAND FOR
JURY TRIAL**

SEYBERT, J.

LINDSAY, M.J.

Plaintiffs, LINDA COVERT and CHAD COVERT, by their attorneys, EDWARD M. TH
CTORIDES & RODRIGUEZ, L.L.P. and THE LOCKS LAW FIRM, P.L.L.C., as and for
their Complaint against the Defendants allege, upon information and belief, as follows:

PRELIMINARY STATEMENT

1. This case arises out of medical care and treatment received by the Plaintiff,
LINDA COVERT, from GARY D. GOLDBERG, M.D. and KAREN B. HILLER, R.N.,
M.S.N., A.N.P., in May, 2008.

2. The Defendants performed a negligent urological evaluation upon the Plaintiff,
LINDA COVERT, which caused and contributed to the Plaintiff being subjected to unnecessary
medical therapies and treatments, including, but not limited to, tethered cord surgery.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28
U.S.C. §1332 based upon the diversity of citizenship of the Plaintiffs and the Defendants and
since this action seeks damages in excess of SEVENTY FIVE THOUSAND (\$75,000.00)
DOLLARS, exclusive of interest and costs.

4. Venue is proper in this district pursuant to 28 U.S.C. 1391(a).

THE PARTIES

5. At all times hereinafter mentioned, Plaintiff, **LINDA COVERT**, resided in the City of Pocatello, County of Bannock, State of Idaho.

6. At all times hereinafter mentioned, Plaintiff, **CHAD COVERT**, resided in the City of Pocatello, County of Bannock, State of Idaho.

7. At all times hereinafter mentioned, **GARY D. GOLDBERG, M.D.** (hereinafter referred to as "**GOLDBERG**"), was and is a physician duly licensed to practice medicine in the State of New York and a citizen of the State of New York, practicing medicine in Nassau County, at 535 Plandome Road, Manhasset, New York 11030.

8. At all times hereinafter mentioned, Defendant, **GOLDBERG**, held himself out to the public as a specialist in the area of urology.

9. At all times hereinafter mentioned, **KAREN B. HILLER, R.N., M.S.N., A.N.P.** (hereinafter referred to as "**HILLER**"), was and is a registered nurse duly licensed to practice nursing in the State of New York and a citizen of the State of New York, practicing nursing in Nassau County, at 535 Plandome Road, Manhasset, New York 11030.

10. At all times hereinafter mentioned, **KAREN B. HILLER, R.N., M.S.N., A.N.P.** (hereinafter referred to as "**HILLER**"), was and is an adult nurse practitioner duly licensed to practice as an adult nurse practitioner in the State of New York and a citizen of the State of New York, practicing medicine in Nassau County, at 535 Plandome Road, Manhasset, New York 11030.

11. At all times hereinafter mentioned, **UROLOGY ASSOCIATES, P.C.** (hereinafter referred to as "**UA, P.C.**"), was and is a professional corporation duly organized and existing

under and by virtue of the laws of the State of New York and maintained its principal place of business at 535 Plandome Road, Manhasset, NY 11030.

12. At all times hereinafter mentioned, Defendant, GOLDBERG, was an agent, servant and/or employee of Defendant, UA, P.C..

13. At all times hereinafter mentioned, Defendant, GOLDBERG, was an agent, servant and/or employee of Defendant, HILLER.

14. At all times hereinafter mentioned, Defendant, HILLER, was an agent, servant and/or employee of Defendant, UA, P.C.

15. At all times hereinafter mentioned, Defendant, HILLER, was an agent, servant and/or employee of Defendant, GOLDBERG.

AS AND FOR A FIRST CAUSE OF ACTION

(MEDICAL MALPRACTICE)

16. That Plaintiff, **LINDA COVERT**, came under the care of the Defendants, **GOLDBERG, HILLER and UA, P.C.**, in or about May, 2008.

17. That the Defendants, GOLDBERG, HILLER and UA, P.C., performed a urologic assessment of the Plaintiff, LINDA COVERT, on May 8, 2008.

18. That the Plaintiff, LINDA COVERT, continued to receive care from each of these Defendants until approximately May 31, 2008.

19. At all times herein mentioned, the Defendants had a duty to use reasonable and proper care in their efforts to care for, treat and medicate said Plaintiff.

20. That the Defendants, jointly and severally, acting by themselves and through their agents, failed to use due, reasonable and proper care in treating the Plaintiff and deviated from accepted standards of medical care prevailing in the areas of medicine in which the Defendants

specialized, including but not limited to, urology, urodynamics testing and nursing, and the Defendants failed to exercise the knowledge, skill and diligence, which as physicians and/or as nurses and/or as adult care practitioners they should have possessed and exercised on behalf of the Plaintiff, and were otherwise careless and negligent.

21. That as a result of the foregoing, the Plaintiff, LINDA COVERT, has sustained serious, severe and irreversible personal injuries, and pain and suffering.

22. That solely as a result of the aforesaid injuries due to the improper care and treatment on the part of the Defendants, the Plaintiff, LINDA COVERT, has been subjected to repeated medical therapy, examinations, tests, medications, hospitalizations, and other care, and the Plaintiff, LINDA COVERT, will continue to require such further treatment in the future.

23. That the Plaintiff, LINDA COVERT, has sustained the injuries and damages set forth solely by reason of the carelessness, negligence and lack of skill of the Defendants, without any negligence or carelessness on the part of Plaintiff, LINDA COVERT.

24. That the Plaintiff, LINDA COVERT, is entitled to monetary damages stemming from this cause of action in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION

(LACK OF INFORMED CONSENT)

25. Plaintiff, **LINDA COVERT**, repeats and realleges each and every allegation contained in Paragraphs numbered "1" through "24", inclusive, of this Verified Complaint, with the same force and effect as if set forth herein at length.

26. The Defendants were under a duty and obligation to advise and inform the Plaintiff, LINDA COVERT, of inherent dangers, risks, and consequences of the medical treatment and procedures recommended by the Defendants, and that the Defendants failed,

neglected, and/or refused to advise, inform, notify the Plaintiff, LINDA COVERT, of the apparent risk and possible complications and dangers which might result in the aforesaid procedures and/or treatment recommended.

27. Defendants failed, neglected, and/or refused to inform, advise, notify, and counsel the Plaintiff, LINDA COVERT, of the possible inherent dangers and risks of said procedures and treatment recommended and performed, and failed to advise and inform the Plaintiff, LINDA COVERT, of any other method of treatment which might have been used to alleviate the condition from which the Plaintiff, LINDA COVERT, was suffering.

28. Said failure to advise, inform, notify, and counsel the Plaintiff, LINDA COVERT, did not afford her adequate knowledge and information so as to determine whether or not she should submit to the aforesaid treatment and, therefore, the Plaintiff, LINDA COVERT, did not give her informed consent, based upon adequate knowledge of the risks and dangers of the procedures; but rather, consented based upon information which was inadequate and insufficient upon which to base a decision to submit to the said procedure.

29. By reason of the aforesaid, the treatment given herein was not based upon adequate and sufficient knowledge or informed consent.

30. Plaintiff, LINDA COVERT, has sustained the injuries and damages, as set forth, solely by reason of the carelessness, negligence, and unskillfulness of the Defendants, and each of them, without negligence or carelessness on her part contributing thereto.

31. That the Plaintiff, LINDA COVERT, is entitled to monetary damages stemming from this cause of action in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION

(LOSS OF CONSORTIUM)

32. Plaintiff, LINDA COVERT, repeats and realleges each and every allegation contained in Paragraphs numbered "1" through "31", inclusive of this Verified Complaint, with the same force and effect as if set forth herein at length.

33. That the Plaintiff, CHAD COVERT, at all times hereinafter mentioned, was, and is, the spouse of the Plaintiff, LINDA COVERT.

34. That as a result of the aforementioned injuries sustained by the Plaintiff, LINDA COVERT, the Plaintiff, CHAD COVERT, has been caused to lose the comfort, society, companionship, and consortium of his spouse.

35. As a direct and proximate result of the aforementioned injuries, the Plaintiff, CHAD COVERT, has been monetarily damaged in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

WHEREFORE, the Plaintiffs, **LINDA COVERT and CHAD COVERT**, demand judgment against the Defendants

(a) on the FIRST CAUSE OF ACTION in the sum of TEN MILLION (\$10,000,000.00) DOLLARS;

(b) on the SECOND CAUSE OF ACTION in the sum of TEN MILLION (\$10,000,000.00) DOLLARS; and

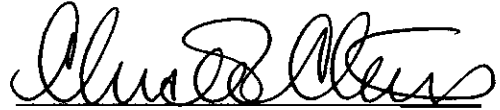
(c) on the THIRD CAUSE OF ACTION in the sum of TEN MILLION (\$10,000,000.00) DOLLARS;

together with costs, interest and disbursements of this action, and for such other and further relief that this Court deems just and proper.

Dated: New York, New York
November 5th, 2010

GOLDSMITH CTORIDES & RODRIGUEZ, L.L.P.
Attorneys for Plaintiffs,
LINDA COVERT and CHAD COVERT

By:



LEE S. GOLDSMITH (LSG 8875)
CHRISTINA CTORIDES (CC 5271)
A Member of the Firm
Office & P.O. Address
747 Third Avenue, 37th Floor
New York, NY 10017
(212) 421-5500

and

LOCKS LAW FIRM, PLLC
Co-Counsel for Plaintiffs
STEVEN P. KNOWLTON
GENE LOCKS
JANET C. WALSH
ANDREW P. BELL
747 Third Avenue, 37th Floor
New York, NY 10017
212-838-3333

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LINDA COVERT and CHAD COVERT,

Plaintiffs,

-against-

GARY D. GOLDBERG, M.D., KAREN B.
HILLER, R.N., M.S.N., A.N.P. and UROLOGY
ASSOCIATES, P.C.,

Defendants.
-----X

Civil Action No.:

JURY DEMAND

JURY DEMAND

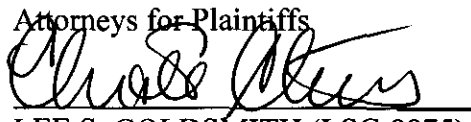
PLEASE TAKE NOTICE that the Plaintiffs demand a trial by jury on all the issues herein.

Dated: New York, New York
November 5th, 2010

GOLDSMITH CTORIDES & RODRIGUEZ, L.L.P.

Attorneys for Plaintiffs

By:


LEE S. GOLDSMITH (LSG 8875)
CHRISTINA CTORIDES (CC 5271)
A Member of the Firm
Office & P.O. Address
747 Third Avenue, 37th Floor
New York, NY 10017
(212) 421-5500

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LINDA COVERT and CHAD COVERT,

Plaintiffs,

-against-

GARY D. GOLDBERG, M.D., KAREN B.
HILLER, R.N., M.S.N., A.N.P. and UROLOGY
ASSOCIATES, P.C.,

Defendants.
-----X

Civil Action No.:

**CERTIFICATE
OF MERIT**

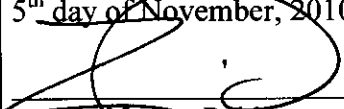
STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Christina Ctordies, a member of the law firm of **GOLDSMITH, CTORIDES & RODRIGUEZ, L.L.P.**, hereby affirms the truth of the following:

That pursuant to the Rules of Civil Procedure §3012(a), the deponent states that she has conferred with a physician who is a specialist in the field in which the Defendants practice medicine and has been advised that sufficient basis exist for the commencement of this medical malpractice suit.


CHRISTINA CTORIDES

Sworn to before me this
5th day of November, 2010.


Notary Public

LEE S. GOLDSMITH
Notary Public, State of New York
No 60-6575400
Qualified in Westchester County
Commission Expires November 30, _____


STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

CHRISTINA CTORDIES, being duly sworn, deposes and says:

I am a member of the law firm of **GOLDSMITH, CTORIDES & RODRIGUEZ, L.L.P.**, attorneys for the Plaintiffs in the within action. That I have read the foregoing COMPLAINT and know the contents thereof; that the same is true, to my knowledge, except as to the within matters stated to be alleged upon information and belief, and that, as to those, I believe them to be true. That the sources of my information are papers and records in Deponent's possession and file. That the reason this Verification is made by your Deponent, and not by said Plaintiffs, are that the Plaintiffs do not reside within the County wherein your Deponent maintains her office.


CHRISTINA CTORIDES

Sworn to before me this
5th day of November, 2010.



Notary Public

LEE. S. GOLDSMITH
Notary Public, State of New York
No. 60-6575400
Qualified in Westchester County
Commission Expires November 30, _____